

Joint consultation conclusions paper on annual update to the list of Financial Services Providers under the clearing obligation for OTC derivative transactions

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HONG KONG MONETARY AUTHORITY
香港金融管理局



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Introduction

1. In April 2019, the Hong Kong Monetary Authority (**HKMA**) and the Securities and Futures Commission (**SFC**) issued a joint consultation paper (**Consultation Paper**) on enhancements to the OTC derivatives regulatory regime for Hong Kong to – (1) mandate the use of Unique Transaction Identifiers for the reporting obligation, (2) revise the list of designated jurisdictions for the masking relief of the reporting obligation and (3) update the list of Financial Services Providers (**FSP List**) under the clearing obligation.
2. The deadline for submitting comments on the update to the FSP List was 25 May 2019, and the deadline for comments on the other proposals was 25 June 2019. We received a total of four submissions on the update to the FSP List. A list of respondents (other than those who requested to remain anonymous) is set out at [Appendix A](#) and the full text of their comments (unless requested to be withheld from publication) can be viewed on the websites of the [HKMA](#) and the [SFC](#).
3. This consultation conclusions paper (**Conclusions Paper**) summarises the comments received on the update to the FSP List as well as our responses and conclusions. This Conclusions Paper should be read together with the Consultation Paper and the comments received.
4. A separate conclusions paper on the other two proposals will be published at a later date.

Executive Summary

5. In the four submissions we received, there were no objections to our proposed FSP List and no changes were suggested. After a recent soft consultation with some major dealers, we have included additional entities in the updated FSP List. These are affiliates of major dealers which have become new clearing members of LCH SwapClear after 1 January 2019 for Brexit-related arrangements. Further details are set out below and the final updated FSP List is set out at [Appendix B](#).

Comments and Conclusions

The proposed FSP List set out in the Consultation Paper

6. In the Consultation Paper, we proposed that the FSP List be based on a snapshot of entities falling under the criteria for FSPs as at the end of 2018 and taking into account our stated approach to updating the FSP List. We did not receive any comments on our proposed FSP List and there were no objections to the addition of the proposed new entities. Also, we did not receive any notification of cessation of OTC derivatives business for entities which we proposed to keep on the FSP List. Accordingly, we will include all the entities on the proposed FSP List in the final list.

Additional entities to be included

7. The Consultation Paper stated that for the purposes of the annual update, we would take a snapshot of entities which fall within the FSP criteria at the end of each calendar year. However, we made an exception to include UBS Europe SE, which became a member of LCH SwapClear in March 2019 (please see paragraph 84 of the Consultation Paper). This was to reflect the transfer of business and cross-border merger of UBS Limited, a London-based entity of the UBS group, into UBS Europe SE.
8. We understand that financial firms in the United Kingdom (**UK**) may lose their right to serve clients throughout the European Union (**EU**) after Brexit if there is no agreement on financial services between the UK and the EU. As a result, some major financial groups may use onshore EU affiliates instead of their London affiliates to provide services to EU clients. Some major dealers have made arrangements for their Europe-based affiliates to become clearing members of central counterparties offering clearing services for OTC derivatives so that they can enter into, and clear as principal, OTC derivative transactions with their EU-based counterparties. UBS Europe SE is a case in point.
9. In this regard, we understand that besides UBS Europe SE, the following affiliates of major dealers have also become clearing members of LCH SwapClear after 1 January 2019 as part of Brexit-related arrangements –
 - a. Bank of America Merrill Lynch International Designated Activity Company
 - b. Barclays Bank Ireland Plc
 - c. BofA Securities Europe SA
 - d. Citigroup Global Markets Europe AG
 - e. Credit Suisse Securities Sociedad de Valores, S.A.
 - f. Goldman Sachs Bank Europe SE
 - g. J.P. Morgan AG
 - h. Morgan Stanley Europe SE
 - i. NatWest Markets N.V.

10. As mentioned above, we included UBS Europe SE in our proposed FSP List. For consistency, the same treatment should apply to affiliates of other major dealers which became clearing members of IRS CCPs after 1 January 2019 for similar purposes. Accordingly, we consulted Hong Kong affiliates of the entities listed in paragraph 9 and got confirmation that the addition of these entities as clearing members of LCH SwapClear is related to their group's Brexit arrangements. Further, none of these dealers objected to us adding their group entities to the updated FSP List.
11. Accordingly, these entities are to be added to the FSP List. The final updated FSP List, incorporating the proposed FSP List in the Consultation Paper and the additional entities mentioned in paragraph 9, is set out at [Appendix B](#).

Concluding Remarks and Next Steps

12. We take this opportunity to thank everyone who took the time and effort to comment and assist us in finalising the updated FSP List.
13. Following our current approach for the annual update, we will gazette the updated FSP List at [Appendix B](#) during the fourth quarter of 2019 for implementation on 1 January 2020.
14. We aim to publish a separate consultation conclusions paper on the other two proposals in the Consultation Paper in the second half of 2019.
15. We will continue to maintain close dialogue with the industry as we consult on other proposals regarding the OTC derivatives regulatory regime in the future.

Appendix A – List of Respondents

(in alphabetical order)

Respondents whose comments are published on the websites of the HKMA and the SFC in full

1. DTC Association, The
2. Hong Kong Bar Association
3. Law Society of Hong Kong, The

Respondents who requested their names and comments to be withheld

4. Anonymous

Appendix B – Final List of Updated Financial Services Providers

The following entities are proposed to be designated as Financial Services Providers for the purposes of the Clearing Rules.

Name of the entities

(in alphabetical order)

1.	Abbey National Treasury Services plc
2.	Agricultural Bank of China Limited
3.	Banco Santander S.A.
4.	Bank of America, N.A.
5.	Bank of America Merrill Lynch International Designated Activity Company
6.	Banque Palatine S.A.
7.	Barclays Bank Ireland Plc
8.	Barclays Bank PLC
9.	Barclays Bank UK PLC
10.	Barclays Capital Inc.
11.	BNP Paribas Fortis SA/NV
12.	BNP Paribas SA
13.	BNP Paribas Securities Corp.
14.	BofA Securities Europe SA
15.	CACEIS Bank SA
16.	Citibank, N.A.
17.	Citigroup Global Markets Europe AG
18.	Citigroup Global Markets Inc.
19.	Citigroup Global Markets Japan Inc.
20.	Citigroup Global Markets Limited
21.	Credit Agricole Corporate and Investment Bank

22.	Credit Foncier de France
23.	Credit Suisse (Schweiz) AG
24.	Credit Suisse AG
25.	Credit Suisse International
26.	Credit Suisse Securities (Japan) Limited
27.	Credit Suisse Securities Sociedad de Valores, S.A.
28.	Credit Suisse Securities (USA) LLC
29.	Deutsche Bank AG
30.	Deutsche Bank Securities Inc.
31.	DB Privat- und Firmenkundenbank AG
32.	Goldman Sachs & Co. LLC
33.	Goldman Sachs Bank Europe SE
34.	Goldman Sachs Bank USA
35.	Goldman Sachs Financial Markets Pty Ltd
36.	Goldman Sachs International
37.	Goldman Sachs Japan Co., Ltd.
38.	HSBC Bank plc
39.	HSBC Bank USA, N.A.
40.	HSBC France
41.	HSBC Securities (USA) Inc.
42.	HSBC UK Bank plc
43.	ING Bank N.V.
44.	ING Bank Śląski S.A.
45.	ING-DiBa AG
46.	J.P. Morgan AG
47.	JPMorgan Chase Bank, N.A.

48.	JPMorgan Securities Japan Co., Ltd.
49.	J.P. Morgan Securities LLC
50.	J.P. Morgan Securities plc
51.	Merrill Lynch Capital Services Inc.
52.	Merrill Lynch International
53.	Merrill Lynch Japan Securities Co., Ltd.
54.	Merrill Lynch, Pierce, Fenner & Smith Incorporated
55.	Mitsubishi UFJ Morgan Stanley Securities Co., Ltd.
56.	Mizuho Bank, Ltd.
57.	Mizuho Capital Markets LLC
58.	Mizuho International plc
59.	Morgan Stanley & Co. International plc
60.	Morgan Stanley & Co. LLC
61.	Morgan Stanley Capital Services LLC
62.	Morgan Stanley Europe SE
63.	Morgan Stanley MUFG Securities Co., Ltd.
64.	MUFG Bank, Ltd.
65.	MUFG Securities EMEA plc
66.	NATIXIS
67.	National Westminster Bank Plc
68.	NatWest Markets N.V.
69.	NatWest Markets plc
70.	Nomura Financial Products & Services, Inc.
71.	Nomura Global Financial Products, Inc.
72.	Nomura International plc
73.	Nomura Securities Co., Ltd.

74.	Nomura Securities International, Inc.
75.	Nordea Bank Abp
76.	RBC Capital Markets, LLC
77.	RBC Europe Limited
78.	Royal Bank of Canada
79.	Santander Investment Securities Inc.
80.	SG Americas Securities LLC
81.	SMBC Capital Markets Inc.
82.	SMBC Nikko Securities Inc.
83.	Societe Generale
84.	Societe Generale International Limited
85.	Standard Chartered Bank
86.	Sumitomo Mitsui Banking Corporation
87.	Sumitomo Mitsui Trust Bank, Limited
88.	The Bank of New York Mellon
89.	UBS AG
90.	UBS Europe SE
91.	UBS Securities LLC
92.	UniCredit Bank AG
93.	UniCredit Bank Austria AG
94.	UniCredit S.p.A.
95.	Wells Fargo Bank, N.A.
96.	Wells Fargo Securities, LLC